

## **REMARKS**

This paper is responsive to a Final Office Action mailed July 12, 2006. Prior to this response, claims 1-47 were pending. Claims 1-47 remain pending. Replacement drawings are enclosed.

The Office Action has rejected claims 1 and 25 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Office Action states that the phrase "each policy is cross-referenced to methods for communicating a query to a device" is not clearly defined in the specification.

In response, the Applicant notes that the specification is filled with examples that explain the relationship between query policy and query methods. A few examples from the specification are described below.

Page 21, ln. 18-24, describes a fastest response policy that cross-references methods, from fastest to slowest response times. The policy dictates that the fastest method is used first. If a result is not received, then the next fastest method is used.

Page 22, ln. 8-14, describes a reliability policy that ranks methods in a hierarchical order based upon reliability. The policy dictates that the most reliable method is used first, and if no reply is received, then the next-most reliable method is used.

Page 22, ln. 20 through page 23, ln. 8, describe an agent or element-specific policy that cross-references the query method to the manufacturer or model number of the element (agent) being queried. Page 26, ln. 15-20, describes the selection of an information type query

policy, where a method is used corresponding to the information requested. Page 26, ln. 20-23 describes an element-type (agent-type) query policy, where a query method is used corresponding to the identified agent type.

Graphically, Fig. 5d illustrates a program unit that supplies a policy selection to a black box (manager). The black box uses the supplied policy to determine which method is selected (page 15, ln. 4-12).

35 U.S.C. 112, first paragraph, states that, “(t)he specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and set forth the best mode contemplated by the inventor for carrying out his invention.”

The Applicant respectfully submits that the specification would enable an expert to understand and make use of a query policy that is cross-referenced to a method for communicating a query to a device, and the Applicant requests that the rejection be withdrawn.

The Office Action has rejected claims 1-47 under 35 U.S.C. 103(a) as unpatentable with respect to Aggarwal (US 6,985,944) in view of Mandal et al. (“Mandal”; US 6,170,009). With respect to claims 1 and 25, the Office Action acknowledges that Aggarwal fails to disclose the selection of a query policy. The Office Action states that Mandal discloses the selection of a query policy, and that it would have been obvious to one with skill in the art to combine the teaching of Mandal with Aggarwal, to provide Aggarwal’s system with a mechanism to specify a high-level policy

for monitoring and controlling devices connected to a network. This rejection is traversed as follows.

An invention is unpatentable if the differences between it and the prior art would have been obvious at the time of the invention. As stated in MPEP § 2143, there are three requirements to establish a *prima facie* case of obviousness.

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck* 947 F.2d 488, 20 USPQ2d, 1438 (Fed. Cir. 1991).

Generally, Aggarwal discloses a method of distributed data collection that permits system fault and performance monitoring to be collected in a central configuration database (Abstract). At col. 1, ln. 64-66, Aggarwal describes a fault management system that can query the state of a device and trigger upon a state change of threshold violation. At col. 8, ln. 50, through col. 9, ln. 14, Aggarwal describes a conventional SNMP network management protocol, to facilitate communication between a managed device with an SNMP agent, and an SNMP manager. The SNMP agent provides access to data stored in the managed device, and the manager uses to data access to control the managed device. At col. 5, ln. 60 through col. 6, ln. 5, Aggarwal discloses a data gathering operation that is preferably performed by discovery, which the Applicant

notes is a conventional SNMP operation. Aggarwal's queries are not driven by a consideration of query policy.

Generally, Mandal discloses a system of network control, which permits a user to specify a high-level policy for controlling the actions of a group of network-connected devices (Abstract). At col. 1, ln. 53-67, Mandal discloses a high-level policy that is translated into lower-level commands that are delivered to devices. At col. 3, ln. 51-66, Mandal discloses a GUI that accepts commands to specify a high-level policy for controlling the actions of devices.

Unlike the Applicant's explicit recitation of a device communication query policy, Mandal describes a more abstract concept of policy as a system level behavior. Mandal describes a policy server as a device to control the actions of devices coupled to the network (col. 3, ln. 44-47). An example is given of a user command that will not permit the system to communicate more than 30% video traffic (col. 3, ln. 56-58). Alternately stated, Mandal's concept of policy is the establishment of system-wide behavior, not the much more limited definition of communication protocols between devices.

The Applicant defines "query policy" as one or more groups of query methods, where each group may include a plurality of query methods (page 4, ln. 5-7). While the Applicant does not explicitly define the term "query method", it would be understood by an expert reading the specification that a query method is the specific protocol used to by a client to query a device. For example, API, SNMP, Windows 2K, SLP, and PJI are listed as examples of query methods (page 4, ln. 7-13).

The current consensus of the CAFC is that the claims are to be interpreted in light of the supporting specification, as described in

Phillips v. AWH Corp. No. 03-1269 (Fed. Cir. 7/12/2005). The Applicant's specification clearly defines "query policy" as something different than Mandal's use of the term "policy".

The Applicant respectfully submits that Mandal's concept of policy has little application to the Applicant's query policy or Aggarwal's discussion of an SNMP query method.

With respect to the first *prima facie* requirement to support as case for obviousness, there is no teaching in the Mandal reference that suggests a modification to Aggarwal that makes the claimed invention obvious. Aggarwal discloses conventional SNMP management. As noted in the Applicant's Background Section (page 1, ln. 22 through page 2, ln. 13), there is more than one method for communicating between managers and managed devices, and the SNMP protocol does not guarantee that an appropriate method is always selected. In contrast, the claimed invention makes the selection of a particular device communication method dependent upon a selected communication-related policy (e.g., response time v. reliability). Mandal does not suggest any modification to Aggarwal's SNMP protocol or to the *method* of communicating with devices, as Mandal is more concerned with abstract system level behavior. That is, Mandal does not suggest that Aggarwal's SNMP protocol be modified to a protocol that selects a communication query method as a result of first selecting a device communications query policy.

Considered from a different perspective (the second *prima facie* requirement), even if an expert were given the Mandal and Aggarwal disclosures at the time of the invention, no expectation has been demonstrated in either Office Action or references themselves, that Aggarwal's conventional SNMP policy can be modified as a result of

initially selecting a device communications query policy. Alternately stated, neither reference considers the grouping of query methods by characteristics such as speed or reliability. Neither reference considers that groupings (policies) can be made selectable.

The *Response to Arguments* Section of the Office Action states that it would have been obvious to combine the teachings of Aggarwal and Mandal “because both pertain to monitoring devices in a network environment.... More specifically, if one skilled in the art were to use the device-specific policies defined by Mandal with the device querying and information retrieval/collection of Aggarwal to obtain control over devices couples to a computer network Mandel (col. 1 line 47-49).”

In response, the Applicant notes that it cannot be obvious to combine these two references (or any two references) on the basis that both pertain to monitoring devices in a network. An obviousness analysis cannot be based merely upon some common feature shared by prior art references, as this analysis does not consider the claimed invention. Alternately stated, it is not relevant if it would have been obvious to combine the two prior art references. Rather, the analysis must show that a combination of references makes the claimed invention obvious.

Further, Mandal does not describe “device-specific policies”, as stated in the Office Action. Rather, he describes abstract system level behaviors that are implemented with low-level “device-specific commands”. Mandal makes no association between his policies and query methods. Therefore, Mandal cannot suggest a modification to Aggarwal’s query methods.

With respect to the third *prima facie* requirement, even if the references are combined, that combination does not disclose all the

elements of the invention of claims 1 and 25. Neither reference describes a method (or manager) that selects a device communications query policy, which is cross-referenced to methods for communicating the query, and that sends the query using a method responsive to the selected query policy. As noted above, SNMP protocol (Aggarwal) does not select a query policy. Mandal describes the implementation of policy at higher Application levels, which is converted to device-specific commands for device management. However, Mandal does not make any association between his concept of policy and query methods used to implement a policy. Therefore, the combination of Aggarwal with Mandal does not explicitly describe every limitation of claims 1 and 25. Neither does the combination suggest modifications that make these missing limitations obvious. Claims 2-24, dependent from claim 1, and claims 26-47, dependent from claim 25, enjoy the same distinctions from the cited prior art, and the Applicant respectfully requests that the rejection be removed.

It is believed that the application is in condition for allowance and reconsideration is earnestly solicited.

Respectfully submitted,

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